

BENEFITS PAYABLE UNDER WORKMEN'S COMPENSATION BILL

LETTER

OF

HERMAN E. WILLS

Assistant Grand Chief Engineer and Acting National
Legislative Representative of the Brotherhood
of Locomotive Engineers

TO THE

MEMBERS OF THAT ORGANIZATION

ILLUSTRATING THE BENEFITS PAYABLE
UNDER THE WORKMEN'S COMPENSATION
BILL (SENATE BILL 959, 63d CONGRESS)



PRESENTED BY MR. CHAMBERLAIN

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LETTER OF MR. HERMAN E. WILLS, ASSISTANT GRAND CHIEF ENGINEER OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND ACTING NATIONAL LEGISLATIVE REPRESENTATIVE OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS, TO THE MEMBERS OF THAT ORGANIZATION, ILLUSTRATING THE BENEFITS PAYABLE UNDER THE WORKMEN'S COMPENSATION BILL, S. 959, NOW PENDING.

In closing the discussion of the workmen's compensation bill in my report on national legislation issued April 5, 1913, I said:

The history of S. 5382 is now at an end; but the workmen's compensation bill is by no means dead. It will be reintroduced and given a new number by the extra session of the Sixty-third Congress. It is our intention to make some changes in phraseology to correct certain errors made in adding amendments and to cover any possible loopholes that may be discovered and to further liberalize it as to the amounts payable.

In fulfillment of this prediction there was introduced in the Senate on April 15 a bill (S. 959) by Senator Sutherland, which, as he explained at the time, is the old commission compensation bill, which was improved by the amendments of the Sixty-second Congress, changed as indicated by the following quotation from his remarks:

In the preparation of this draft of the bill I have adopted most of the House amendments. Some of them I have not adopted. The principal amendment which I have not adopted is that which provides for a 5 days' waiting period instead of a 14 days' waiting period, as provided in the Senate bill. I have restored the Senate provision in that respect. The House amended the bill so as to provide for a maximum salary upon which the computation of compensation was to be made of \$120 per month. In the bill that I have introduced I have taken off the maximum altogether, simply providing for a minimum salary, upon which the computation of half wages is to be made of \$50 a month, so that the minimum compensation under this bill, if passed, will be \$25 a month, and there will be no maximum whatever. I have thought best to do that, because I think if we restore the provision with reference to the waiting period to 14 calendar days instead of 5 calendar days, the aggregate of the amount which will be saved by doing that will justify us in taking off the maximum. The 9 days which will be saved, applied to all of these employees, will amount in the aggregate to a considerable sum, while it will amount to a very trifling sum to each individual. The policy of this sort of legislation is primarily to take care of the serious accidents, the calamities; and by cutting out these trivial injuries we will save a large sum of money to apply to the more serious injuries.

The paramount features of a compensation law are the form, the scope, the administration, and the benefits. A careful comparison shows conclusively that in these four essentials the compensation bill indorsed and advocated by the Brotherhood of Locomotive Engineers, known as S. 5382, was the best that had up to that time been put forth with serious hopes of its becoming a law. And as carefully gone over and reintroduced, this bill is a decided improvement over any compensation law in force in the world, and is more liberal and effective in its essentials than any of the numerous measures now pending before Congress.

Our bill in form is both exclusive and compulsory, as was that proposed by the Federal commission, which passed the Senate by a vote of 64 to 15, and which was then indorsed almost unanimously by the Brotherhood of Locomotive Engineers' convention at Harrisburg, and later, under our inducement, liberalized and passed by the House of Representatives on a vote of 218 to 81. It is in the form desired by all consistent advocates of the compensation system, and in the form most vigorously opposed by the damage-suit lawyers. It is in the form which, according to the highest opinion, is the one most likely to be held constitutional by the Supreme Court of the United States. It is in the form under which Congress assumes complete jurisdiction over the subject matter. It is in the form adopted by those States not under the necessity of providing putative optional or elective provisions in order to circumvent constitutional inhibitions. It is in the form under which in all reason the highest rates of awards can be secured.

In defining its scope our bill uses the words "arising out of and in the course of his employment"; and this scope is limited only by the section which provides—

that no compensation or benefits shall be allowed for the injury or death of any employee where it is proved that his injury or death was caused by his willful intention to bring about the injury or death of himself or of another, or that the same resulted from his intoxication while on duty: *Provided*, That this clause as to intoxication shall not apply if the employer knew, or in the exercise of ordinary care might have known, that the employee was intoxicated or that he was in the habit of becoming intoxicated.

In England, in most of the Provinces of Canada, and in many of our States which have thus far enacted compensation laws, the same words, "arising out of and in the course of his employment," are adopted. Among the States which have so enacted are Illinois, Kansas, Nevada, New Hampshire, New Jersey, New York, and Missouri, while California and Wisconsin vary it slightly by the use of the expression "while engaged in the line of his duty or the course of his employment." No foreign country has as narrow an exception provision as our bill. They usually provide that "serious or willful misconduct" shall exempt an employee from recovering the benefits of the law. And few, if any, of the States have, when considered in its entirety, allowed such a broad scope of recovery as does S. 959. To be held constitutional our bill must provide a reasonable regulation of commerce, and can only include in its scope that subject matter which comes under the jurisdiction of Congress. I think no one who gives the matter thought would expect a law making the railroads absolute insurers of the safety of their employees, whether on or off duty. In using the words "arising out of and in the course of his employment" we maintain a desired uniformity and have the advantage of precedents already established, and so prevent undue litigation.

From the day of the publication of the very first tentative draft of the commission workmen's compensation bill until the present time there has been a repeated request for constructive suggestions as to how we can improve its administrative features, and since to date none of the very few recommendations for changes which have been received could consistently be adopted, I am safe in saying that the method of administration proposed in our bill is the best applicable

to the situation. I can think of no scheme which in practice would result in greater justice in the settlement of disputes under a compensation law than to permit the employer and the employee or his dependents to adjust their differences between themselves or to leave the matter in the hands of committees similar to our adjustment committees, or, failing by either or both of these methods, to lay the case before an impartial arm of the equity courts, an official appointed by the district judge of the jurisdiction and paid by the United States Government, who will act as a mediator, a conciliator, an adjuster of accident claims, and from whose findings appeal may be taken by the employee to a jury of his peers.

The form, scope, and administrative features of a compensation bill are matters which can well be left to legislative experts, but when it comes to a consideration of the benefits every man feels free to take a hand. Dollars and cents is the universal language; we all understand it. It is but natural that we should take an active interest in determining what we will get out of a compensation law which is to take the place of our other remedies.

It is no idle boast when I state that all in all our bill as it now stands would provide a better balanced, a more certain and exact, and a higher rate of awards for personal injuries or deaths than any law in operation in the United States, and it is incomparably more liberal than the compensation laws of other countries. It is not my desire to speak disparagingly of any law, either State or Federal, the passage of which has been secured under the pressure of labor's demands, and it could in no way be to my personal aggrandizement to attempt to deceptively manipulate the figures of our bill in order to set it off to advantage against those enactments already secured for the relief of injured employees; but solely for the purpose of putting the truth of the matter before our men, and in so doing to perform my duty as their representative instructed to keep them posted on matters of national legislation affecting their interest, I make these statements.

I have before me a copy of practically every compensation law in force in the world. I have especially carefully compared our bill with the laws of the various States (and some 16 have already supplanted the obsolete, unequitable, and expensive method of recovery through negligence damage suits by the adoption of the modern, humane, and costless system of general and automatic compensation), and I find that it would be decidedly to our advantage to secure the enactment of S. 959. And I trust that our men, regardless of what others may do, will continue to uphold and actively support the officers of their organization in their determination to carry out the declared policy of the Brotherhood of Locomotive Engineers' convention and work for the passage of the most liberal workmen's compensation law procurable.

In running over the various laws I note that not one of them has a higher minimum wage basis set than has our bill. In figuring the percentages under our bill \$50 is considered the lowest wage; whereas some of the States drop materially lower, while Arizona and New Hampshire provide no minimum whatever. I find that all the State compensation laws have restrictions on the maximum amounts payable, whereas under our bill no limit whatever is put upon the amount that would be paid. It is worth nothing that the usual maximum set for death payments by the State laws is just about the same as the

average amount which would be paid under our bill. I think the highest amount recoverable for death under any State law is that provided by the California statute, namely, \$5,000. Reference to the appended table will show that in a not extreme case \$15,300 will be paid the dependents for the death of their supporter under S. 959. The Wisconsin law, which has been considerably cited as giving satisfaction, says the average annual earnings shall not be taken at more than \$750 per year, which sum is to be paid for four years, making a highest possible total for death of slightly over \$3,000.

The relative values of our bill and the State laws, as suggested in these few comparisons, is practically the same for the other schedules. None of the State laws would allow such a recovery as might be paid under our bill for permanent total disability (say, the loss of both arms) to an engineer 25 years old whose earnings as calculated under the bill are \$300 per month and who lives to be 55. He would receive \$150 per month for 30 years, making a total of \$54,000. The average maximum amount allowed for this class under the State laws is only about \$5,000.

Comparative figures are given as notes to the appended table which suggest the increase in compensation over that paid under the present excellent liability law which would accrue to the employees under the proposed law. But even these figures do not tell the complete story of the advantage of a compensation law. It is necessary that I point out in clear and emphatic language the most serious situation now confronting railroad employees who meet with accident or suffer death while pursuing their duties. Such a one first must carry his case into court under the employers' liability law, and there he must prove negligence or fault on the part of the company. If he is able to prove this, the injured employee stands a possible chance for recovery, but he is usually compelled to wait while his case is being fought through one, two, or three tiresome trials, taking years of time and causing endless suspense and inconvenience. Then, when he finally settles his case, he only gets about one half the amount of damages allowed. The other half is consumed in attorneys' fees and attendant legal expenses. In all those hundreds of cases where fault is shown to be due to the employee, there is no possible chance of recovery in a court even under the most favorable interpretation of the liability law; but under our proposed compensation law no question of negligence or contributory negligence can be raised. The question of negligence, together with the barbarous defenses of fellow-servant responsibility and assumption of risks, are entirely abrogated. Under the compensation law it would be necessary merely to prove the fact that he was injured in the service of an interstate railroad and establish the nature of the injury; then his award or damages or compensation is sure, immediate, and definite. There would be no delay, no awful suspense, no exorbitant expense, no friction with the company; and no chance is taken, no gamble is necessary. Our bill would pay for every case of injury according to earnings and dependency. In actual amounts more would be paid for the same class of disability in almost every instance than is received under the liability law; but in reckoning the benefits of our measure there should be added in each case the sum allowed for hospital, surgical, and doctor bills, whereas from each total under the liability law there should be subtracted the cost of settlements.

It has been said that if there were really such a difference in the two laws the railroad companies would be actively opposing the pending bill. That statement, if made in good faith, is excusable; but in my opinion it was first put forth on an assumption that its hearers were either ignorant or unthinking. Those who are observant know that the most effective way to defeat legislation advocated by labor is to divide the labor unions, to bring about internal dissensions, or to pit one organization against another in a struggle for petty preference or prominence. I call attention to the present disunited condition of the four railroad employee organizations on the subject of workmen's compensation as evidence of the success of the efforts of the companies to defeat an undesirable piece of legislation without assuming the responsibility of so doing. The employees are affected alike by the bill. Consistency would expect us to express a similar desire in regard to its disposition. As it now is, however, our wants seem to be four. Our greatest advantage still lies in the one way, and that is the way first determined upon by the responsible officers of the organizations, and then adopted by the Grand International Division of the Brotherhood of Locomotive Engineers; it is in the passage of an exclusive and compulsory compensation law, one that is broad in its scope, equitable in its method of administration, and liberal in its amounts of compensation. And the bill that best measures up to this standard is S. 959, copy of which will be sent on request.

Illustrating the benefits payable under the workmen's compensation bill now pending, S. 959.

Nature of injury.	Dependents.	Wage per month.	Compensation paid.			
			Per cent per month.	Rate per month.	Time period.	Total.
Death.....	None.....	\$50.00 100.00 150.00			Burial expenses not to exceed.	\$150.00 150.00 150.00
Do....	Widow only.....	50.00 100.00 150.00	40	\$20.00 40.00 60.00	12 months x 5 years..	1,920.00 3,840.00 5,760.00
		50.00		50 25.00 50 12.50	12 months x 8 years.. 12 months x 7 years..	2,300.00 1,050.00
					15 years..	3,350.00
Do....	Widow and 1 male child 1 year old.	100.00	50 25	50.00 25.00	12 months x 8 years.. 12 months x 7 years..	4,800.00 2,100.00
					15 years..	6,900.00
		150.00		50 75.00 25 37.50	12 months x 8 years.. 12 months x 7 years..	7,200.00 3,150.00
					15 years..	10,350.00
		50.00	50 45 35 25	25.00 22.50 17.50 12.50	12 months x 8 years.. 12 months x 5 years.. 12 months x 2 years.. 12 months x 4 years..	2,300.00 1,350.00 420.00 600.00
					19 years..	4,670.00

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Illustrating the benefits payable under the workmen's compensation bill now pending, S. 959—Continued.

Nature of injury.	Dependents.	Wage per month.	Compensation paid.			
			Per cent per month.	Rate per month.	Time period.	Total.
Death	Widow and 3 children: 1 girl, 1 year; 1 boy, 3 years; 1 girl, 5 years. (In event of death or remarriage of widow amounts continue to children as figured after 3-year period has expired.)	\$100.00	50	\$50.00	12 months x 8 years..	\$4,800.00
			45	45.00	12 months x 5 years..	2,700.00
			35	35.00	12 months x 2 years..	840.00
			25	25.00	12 months x 4 years..	1,200.00
					19 years..	9,540.00
		150.00	50	75.00	12 months x 8 years..	7,200.00
			45	67.50	12 months x 5 years..	4,050.00
			35	52.50	12 months x 2 years..	1,260.00
			25	37.50	12 months x 4 years..	1,840.00
					19 years..	14,350.00
		50.00	50	25.00	12 months x 10 years..	3,000.00
			45	22.50	12 months x 4 years..	1,080.00
			35	17.50	12 months x 2 years..	420.00
			25	12.50	12 months x 4 years..	600.00
					20 years..	5,100.00
Do....	4 or more children: 1 boy, 6 years; 1 boy, 2 years; 1 girl, 4 years; 1 girl baby. (Dependent child over age limit mentally or physically incapacitated continued at rates of other children.)	100.00	50	50.00	12 months x 10 years..	6,000.00
			45	45.00	12 months x 4 years..	2,160.00
			35	35.00	12 months x 2 years..	840.00
			25	25.00	12 months x 4 years..	1,200.00
					20 years..	10,200.00
		150.00	50	75.00	12 months x 10 years..	9,000.00
			45	67.50	12 months x 4 years..	3,240.00
			35	42.50	12 months x 2 years..	1,260.00
			25	37.50	12 months x 4 years..	1,800.00
					20 years..	13,300.00
		50.00		20.00		1,920.00
		100.00	40	40.00	12 months x 8 years..	3,840.00
Do.....	Both parents wholly dependent.	150.00		60.00		5,760.00
		50.00		12.50		1,200.00
		100.00	25	25.00	12 months x 8 years..	2,400.00
Do.....	One parent wholly dependent...	150.00		37.00		3,600.00
		50.00		7.50		720.00
		100.00	15	15.00	12 months x 8 years..	1,440.00
Do.....	Parent(s) partially dependent...	150.00		22.50		2,160.00
		50.00		15.00		1,440.00
		100.00	30	30.00	12 months x 8 years..	2,880.00
Do.....	{Brothers, or sisters, or grandparents, or grandchildren wholly dependent.	150.00		45.00		3,320.00
		50.00		10.00		960.00
		100.00	20	20.00	12 months x 8 years..	1,920.00
Do.....	One of same wholly dependent..	150.00		30.00		2,880.00
		50.00		5.00		470.00
		100.00	10	10.00	12 months x 8 years..	940.00
Do.....	{One or more of same partially dependent.	150.00		15.00		1,310.00
		50.00				600.00
		100.00				1,200.00
Do.....	{Widow or children not resident of United States or contiguous countries.	150.00	Lump sum.		12 months x 1 year....	1,800.00

Statistics compiled by experts in the employ of the United States Government show that the average amount paid for injury resulting in death during a period of three years under the employers' liability law was \$1,221. The average under this table of 36 deaths is \$3,610. Expenses of litigation should be deducted from the \$1,221, whereas the entire \$3,610 is paid the dependents. In 1912 there were 3,320 employees killed while on duty in train operation and from industrial accidents, so called, whose dependents would be provided for under this bill.

Where permanent total disability results from any injury there shall be paid to the injured employee 50 per cent of the monthly wages of such employee during the remainder of his life.

Nature of injury.	Wage per month.	Age at—		Compensation paid.		
		Time of injury.	Time of death.	Rate per month.	Time period.	Total.
		<i>Years.</i>	<i>Years.</i>			
Total loss of sight in both eyes	\$50.00	20	60	\$25.00	12 months x 40 years . .	\$12,000.00
	100.00	30	60	50.00	12 months x 30 years . .	18,000.00
	150.00	40	60	75.00	12 months x 20 years . .	18,000.00
Loss of both feet at or above ankle	50.00	30	60	25.00	12 months x 30 years . .	9,000.00
	100.00	30	50	50.00	12 months x 20 years . .	12,000.00
	150.00	30	40	75.00	12 months x 10 years . .	9,000.00
Loss of both hands at or above wrist	50.00	30	40	25.00	12 months x 10 years . .	3,000.00
	100.00	30	50	50.00	12 months x 20 years . .	12,000.00
	150.00	30	60	50.00	12 months x 30 years . .	27,000.00
Loss of one hand and one foot	50.00	25	50	25.00	12 months x 25 years . .	7,500.00
	100.00	25	50	50.00	12 months x 25 years . .	15,000.00
	150.00	25	50	75.00	12 months x 25 years . .	22,500.00
Spinal injury, paralysis of legs or arms	50.00	50	55	25.00	12 months x 5 years . . .	1,500.00
	100.00	50	55	50.00	12 months x 5 years . . .	3,000.00
	150.00	50	55	75.00	12 months x 5 years . . .	4,500.00
Incurable imbecility or insanity	50.00	40	50	25.00	12 months x 10 years . .	3,000.00
	100.00	50	60	50.00	12 months x 10 years . .	6,000.00
	150.00	60	70	75.00	12 months x 10 years . .	9,000.00
Any injury causing permanent total disability	50.00	60	70	25.00	12 months x 10 years . .	3,000.00
	100.00	50	60	50.00	12 months x 10 years . .	6,000.00
	150.00	40	50	75.00	12 months x 10 years . .	9,000.00
Averages	100.00	38	55	50.00	17 years	10,047.00

For a three-year period under the liability law, for this class of injuries the average age at injury was 34 years, with an average loss in life expectation of 32 years, for which gross payments averaged \$4,238.

Where permanent partial disability results from any injury:

(1) *An amount equal to 50 per cent of his wages shall be paid to the injured employee for the periods stated against such injuries, respectively, as follows:*

Nature of injury.	Wage per month.	Compensation paid.		
		Rate per month.	Time period.	Total.
Loss of arm (or use) at elbow.....	\$50.00	\$25.00	72 months.....	\$1,800.00
	100.00	50.00		3,600.00
	150.00	75.00		5,400.00
Loss of hand (or use) at wrist.....	50.00	25.00	57 months.....	1,425.00
	100.00	50.00		2,850.00
	150.00	75.00		4,275.00
Loss of leg (or use) at knee.....	50.00	25.00	66 months.....	1,650.00
	100.00	50.00		3,300.00
	150.00	75.00		4,950.00
Loss of foot (or use) at ankle.....	50.00	25.00	48 months.....	1,200.00
	100.00	50.00		2,400.00
	150.00	75.00		3,600.00
Complete loss of hearing in both ears.....	50.00	25.00	72 months.....	1,800.00
	100.00	50.00		3,600.00
	150.00	75.00		5,400.00
Complete loss of hearing in one ear.....	50.00	25.00	36 months.....	900.00
	100.00	50.00		1,800.00
	150.00	75.00		2,700.00
Complete loss of sight in one eye.....	50.00	25.00	30 months.....	750.00
	100.00	50.00		1,500.00
	150.00	75.00		2,250.00
Loss of thumb.....	50.00	25.00	13 months.....	325.00
	100.00	50.00		650.00
	150.00	75.00		975.00
Loss of one phalanx of thumb.....	50.00	25.00	6½ months.....	167.50
	100.00	50.00		325.00
	150.00	75.00		482.50
Loss of first finger.....	50.00	25.00	9 months.....	225.00
	100.00	50.00		450.00
	150.00	75.00		675.00
Loss of two phalanges of first finger.....	50.00	25.00	4½ months.....	112.00
	100.00	50.00		225.00
	150.00	75.00		337.50
Loss of second finger.....	50.00	25.00	7 months.....	175.00
	100.00	50.00		350.00
	150.00	75.00		525.00
Loss of two phalanges of second finger.....	50.00	25.00	3½ months.....	87.50
	100.00	50.00		175.00
	150.00	75.00		262.00
Loss of third finger.....	50.00	25.00	6 months.....	150.00
	100.00	50.00		300.00
	150.00	75.00		450.00
Loss of two phalanges of third finger.....	50.00	25.00	3 months.....	75.00
	100.00	50.00		150.00
	150.00	75.00		225.00
Loss of fourth finger.....	50.00	25.00	5 months.....	125.00
	100.00	50.00		250.00
	150.00	75.00		375.00
Loss of two phalanges of fourth finger.....	50.00	25.00	2½ months.....	62.50
	100.00	50.00		125.00
	150.00	75.00		187.50
Loss of great toe.....	50.00	25.00	9 months.....	225.00
	100.00	50.00		450.00
	150.00	75.00		675.00
Loss of any other toe.....	50.00	25.00	4 months.....	100.00
	100.00	50.00		200.00
	150.00	75.00		300.00
Averages.....	100.00	50.00	24 months.....	1,197.34

(2) In all other cases of injury resulting in permanent partial disability the compensation shall bear such relation to the periods stated in subdivision 1 of this clause (D) as the disabilities bear to those produced by the injuries named therein, and payments shall be made for proportionate periods not in any case exceeding 72 months.

(3) *Where temporary total disability results from any injury there shall be paid 50 per cent of the monthly wages of the injured employee during the continuance of such temporary total disability.*

Nature of injury.	Wage per month.	Compensation paid.		
		Rate per month.	Duration of disability.	Total.
Temporary total loss of sight in both eyes.....	\$50.00 100.00 150.00 50.00	\$25.00 50.00 75.00 25.00	12 months x 2 years.....	\$400.00 800.00 1,200.00 300.00
Broken leg(s).....	100.00 150.00 50.00	50.00 75.00 25.00		600.00 900.00 150.00
Broken arm(s).....	100.00 150.00 50.00	50.00 75.00 25.00		300.00 450.00 1,500.00
Temporary total paralysis.....	100.00 150.00 50.00	50.00 75.00 25.00		3,000.00 4,500.00 3,000.00
Curable imbecility or insanity.....	100.00 150.00 50.00	50.00 75.00 25.00	12 months x 10 years.....	6,000.00 9,000.00 75.00
Causing temporary total disability lasting over 14 days.	100.00 150.00	50.00 75.00		150.00 225.00

(4) Where temporary partial disability results from an injury, the employee, if he is unable to secure work at the same or better wages than he was receiving at the time of the injury, shall receive 50 per cent of his wages during the continuance of such disability; but such payment shall not extend beyond the period fixed for payment for permanent partial disabilities of the same character; and if the employee refuses to work after suitable work is furnished or secured for him by the employer, at the same or better wages than he was receiving at the time of the injury, he shall not be entitled to any compensation for such disability during the continuance of such refusal.

In the above, as in other cases, the employer is required to furnish "all medical and surgical aid and assistance that may be reasonably required, including hospital services," during the 14 days and to continue the same after the 14 days in an amount not to exceed \$200; and all this in addition to the awards allowed. The average for these classes under the liability law is \$73 per case.

APPENDIX.

[S. 959, Sixty-third Congress, First session.]

A BILL To provide an exclusive remedy and compensation for accidental injuries, resulting in disability or death to employees of common carriers to railroad engaged in interstate or foreign commerce, or in the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every common carrier, including express companies, engaged in interstate or foreign commerce by railroad, including commerce between the District of Columbia and a State (hereinafter designated employer), shall pay compensation in the amounts hereinafter specified to any employee who, while employed in such commerce by such employer, sustains personal injury by accident arising out of and in the course of his employment and resulting in his disability, or to the dependents, as hereinafter defined, of such employee in case such injury results in his death.

SEC. 2. That every common carrier, including express companies, by railroad in the District of Columbia (hereinafter designated employer) shall pay compensation in the amounts hereinafter specified to any employee who sustains personal injury by accident arising out of and in the course of his employment and resulting in his disability, or to the dependents, as hereinafter defined, of such employee in case such injury results in his death.

SEC. 3. That except as provided herein no such employer shall be civilly liable for any personal injury to or death of any such employee resulting from any such accident.

SEC. 4. That the first fourteen calendar days of disability resulting from any injury shall be excluded from the period of time for which compensation is hereinafter specified, but this shall not be construed to reduce the length of time over which payments shall extend wherever specific periods are herein fixed: *Provided, however*, That during said fourteen days the employer shall furnish all medical and surgical aid and assistance that may be reasonably required, including hospital services.

SEC. 5. That after the expiration of the fourteen days mentioned in the foregoing section the employer shall continue to furnish such medical and surgical aid and assistance as may be reasonably required, including hospital services, in an amount not exceeding \$200, unless such employee elects to furnish his own physician or surgeon or care for himself. The compensation hereinafter provided shall be in addition to all such surgical, medical, and hospital services as set forth in this and the preceding section.

SEC. 6. That no compensation or benefits shall be allowed for the injury or death of any employee where it is proved that his injury or death was occasioned by his willful intention to bring about the injury or death of himself or of another, or that the same resulted from his intoxication while on duty: *Provided*, That this clause as to intoxication shall not apply if the employer knew or in the exercise of ordinary care might have known that the employee was intoxicated or that he was in the habit of becoming intoxicated.

SEC. 7. That it shall be the duty of the injured employee, immediately upon the happening of the accident, or as soon thereafter as practicable, and not later than ninety days thereafter, and likewise in case of his death by such ninety days thereafter, to give or cause to be given to the employer written notice of the accident causing such injury or death, stating in ordinary language the time and place thereof, the name of the injured or dead employee, his class of service, and the address of the injured employee or person giving the notice: *Provided*, That where it is made to appear that the party herein required to give such written notice has been prevented from giving it through or by reason of mental or physical incapacity, ignorance of law or of fact, or the fraud or deceit of some other person, or from other good cause, the same

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may be given after the expiration of said ninety days, but not later than six months from the date of the accident or death.

In the absence of such written notice the employer shall not be liable to pay any compensation under this act unless, in cases where the injury has resulted in the absence from work of the employee for at least two days, and in case of death, it is made to appear that within such period of ninety days such employer had actual knowledge of the injury or death: *Provided*, That in case of death resulting within forty-eight hours from the time of the accident notice thereof shall not be required.

No defect or inaccuracy in the written notice herein required shall be deemed material unless the employer shall show that he was prejudiced thereby, and then only to the extent of such prejudice; and such written notice may be substantially in the following form:

"FORM OF NOTICE OF ACCIDENT AND CLAIM.

"To be filled out by an injured employee or by a dependent of a deceased employee or by a person acting for either.

"To _____:

"You are hereby notified that _____ (name of deceased or injured employee), your employee, met with an accident on or about the _____ day of _____, 19____, at or near _____, in the State of _____, and that the accident occurred in the course of his employment by you as _____ (class of service), and resulted in his _____ (disability or death) on the _____ day of _____, 19____, and claim for compensation is hereby made under the provisions of the Federal accident compensation act of nineteen hundred and fourteen.

"Name _____ (person giving notice),

"Address _____."

But no variation from this form shall be material if the notice is sufficient to advise the employer that a certain employee by name met with an accident in the course of his employment (stating the nature of such employment) on or about a specified time at or near a certain place which resulted in his disability or death. The notice may be served personally upon the employer, or upon any agent of the employer upon whom a summons may be served in a civil action under the laws of the State or the District of Columbia where the accident occurred, or upon any station agent, or by sending it by registered mail to the employer, addressed to the principal office or to any division superintendent of such employer.

SEC. 8. That it shall be lawful at any time after the expiration of fourteen days from the date of an injury, unless an award or findings shall have previously been made, for the employer and employee to settle by agreement according to the limitations of amount and time in this act established, the compensation due under this act, which agreement shall be in writing signed and acknowledged by the parties, and shall specify the compensation, if any, due and unpaid by the employer to the employee up to the date of the agreement, and, if agreed upon, the amount of the monthly payments thereafter to be made by the employer to the employee, and the time such monthly payments shall continue. In case of death it shall be lawful for the employer and any of the dependents of the deceased employee to settle by agreement in like manner and with the same effect the compensation payable to such dependent under this act. The periods of compensation provided for permanent total disabilities or for the permanent partial disabilities specifically mentioned in subdivision one, clause (D) of section twenty-one, or for death, and the provisions of this act with respect to periodic payments and the percentage which such payments shall bear to the monthly wages shall not be varied by such agreement. Such agreement may be substantially as follows:

"In the matter of the claim of _____ for personal injury received by _____, in the service of _____.

"_____ and _____, an employee of said _____, injured in _____ service (or in case of death, _____, dependent of _____, deceased, an employee injured in the service of said _____,) hereby agree to the following adjustment under the Federal accident compensation act of nineteen hundred and fourteen of the liability for injuries (or death resulting

from injuries) to ————, received in the course of and arising out of his employment by said ———— (or receiver, as the case may be), in interstate (or foreign) commerce (or in the District of Columbia), at ————, on the ———— day of ————, 191— (here state the facts generally as to the work in which employee was engaged when injured), the said adjustment being as follows: (Here state the terms of the agreement, referring to the appropriate sections and subsections of the act.)

“(Signed) ————,

“—————,

“—————,

“Employee (or dependent of employee).”

Said agreement shall be executed in triplicate, one of which may be retained by the employer, one by the employee or his dependents, and the other shall be filed with the adjuster, as provided in section twelve. Any modification or alteration of said agreement, if made by the parties, shall be in writing and executed and filed in the same manner and with like effect. If the employer shall fail for a period of ten days, after written demand, to make any payment provided for in said agreement, the employee or dependent at his election may maintain an action in any State or Federal court of competent jurisdiction to enforce such agreement, or may treat such agreement as rescinded and proceed to enforce the claim for compensation under the provisions of this act. Save as provided in this section no agreement purporting to settle compensation due under this act shall be valid.

SEC. 9. That it shall be competent for any employer subject to the provisions of this act and his employees to organize and constitute, in such manner as they may determine, a committee or committees for the purpose of settling disputes and awarding compensation under and in accordance with the limitations as to amount and time prescribed in this act; and it shall thereupon be the duty of the employer to file a written notice with the adjuster or adjusters having jurisdiction within the territory for which said committee is constituted, giving the names and post-office addresses of the members of the committee or committees. If the compensation due under this act be not settled by the agreement of the parties, and any such committee exists, the differences between the employer and employee arising under this act shall, upon the request in writing of either party and the written consent of the other filed with the committee, be settled by such committee in accordance with the provisions of this act, and after the filing of such consent the provisions of this act with reference to instituting original proceedings before the adjuster shall not apply. Such committee shall not be bound by technical rules and shall give the parties and their witnesses ample opportunity to be heard. The award made by such committee shall be final, except as provided in section eleven, and shall be filed by the committee with the adjuster having jurisdiction within thirty days after the same is made, and the provisions of section twelve, so far as applicable, shall apply thereto. The adjuster shall file such award with the clerk of the court having jurisdiction in the same manner and with the same effect as findings made by the adjuster, and said award, except that it shall be final, shall be treated in all respects as such findings. If the committee shall fail to make an award within ninety days after the filing of such consent, the same shall, by the said committee at the request of either party in writing, be immediately referred to the adjuster having jurisdiction thereof, who shall proceed to hear and determine the same as if the claim for compensation were originally before him upon petition and answer.

SEC. 10. That before any agreement or award has been made or after the making of any such agreement or award, and at any time before the expiration of two years from the date of the accident, it shall be the duty of the injured employee, if so requested by the employer, to submit himself one or more times, at reasonable times and places, for examination by a duly qualified physician or physicians furnished and paid by the employer. It shall also be the duty of such employee in like manner to submit himself to one or more such examinations whenever his original claim for compensation or the matter of the review of compensation is pending before an adjuster or the court. The employee shall have the right to have a duly qualified physician or physicians, provided and paid for by himself, present at any such examination. If the employee refuses to submit himself to any such examination, or in any way obstructs the same, his right to payments or compensation and his right to take or prosecute any proceeding under this act shall be suspended until he shall have submitted himself for such examination, and no compensation shall at any time be pay-

able in respect to the period of such suspension. Upon request a copy of the report of the employer's physician or physicians of such examination shall be furnished to the employee, and a copy of the report of the employee's physician or physicians, if any, shall be furnished to the employer, within six days after any such examination. The United States court, upon application of the employer, may in any case of death, for good cause, order an autopsy at the expense of the employer.

SEC. 11. That an agreement for compensation may be modified at any time within two years after the accident by a subsequent agreement. At any time before the expiration of two years from the date of the accident, but not afterwards, and before the expiration of the period for which payment of compensation has been fixed thereby, but not afterwards, any agreement, award, findings, or judgment may be from time to time reviewed by the adjuster upon the application of either party after due notice to the other party upon the ground that the incapacity of the injured employee has subsequently ended, increased, or diminished. Upon such review the adjuster may increase, diminish, or discontinue the compensation from the date of the application for review, in accordance with the facts, or make such other order as the justice of the case may require, but such order shall have no retroactive effect. The findings of the adjuster upon such review shall be served on the parties and filed with the clerk of the court having jurisdiction in like time and manner and subject to like disposition as in the case of original findings.

SEC. 12. That it shall be the duty of the employer to file, or cause to be filed, every agreement for compensation, or modification thereof, to which he is a party, in the office of the adjuster having jurisdiction, as hereinafter provided, within sixty days after it is made; otherwise it shall be voidable by the employee or dependent. The same shall be received and filed by said adjuster and recorded and indexed. A copy thereof, certified by the adjuster, may be admitted in evidence with like effect as the original; and it shall be the duty of the adjuster to furnish a certified copy at the request of any person in interest: *Provided*, That the employee or dependent who is a party to said agreement may file the same with the same effect as though filed by the employer: *And provided further*, That where there are two or more adjusters having concurrent territorial jurisdiction such agreement shall be filed with the adjuster senior in date of appointment.

SEC. 13. (1) That the United States district court in each judicial district shall, within thirty days after this act takes effect, and thereafter whenever necessary to fill a vacancy, appoint a competent person to be known as adjuster of accident compensation, and may, from time to time, whenever the business in any such district in the judgment of the Attorney General of the United States justifies it, appoint additional adjusters. Each of such adjusters shall receive a salary of not less than \$1,800 nor more than \$3,000 per annum, to be paid by the United States in equal monthly installments in like manner as salaries of district judges are paid. It shall be the duty of the Attorney General of the United States, as soon as practicable, to make inquiry and fix and establish the salary to be paid to each adjuster within the limits aforesaid, the determination by him of the amount to be based upon the extent of the business done or to be done by said adjuster under this act. Each adjuster shall have jurisdiction of all cases arising under this act within the judicial district for which he is appointed: *Provided, however*, That where more than one adjuster is appointed for a judicial district, the court making the appointment may, in its discretion, determine the manner in which the authority of the respective adjusters shall be exercised under this act within the same district or limit the jurisdiction of any adjuster appointed by it to one or more counties or other territorial subdivision within the district, in which case the jurisdiction of such adjuster shall extend to such county or counties, or territorial subdivision only, except as hereinafter provided: *And provided further*, That every appointment of an adjuster shall be certified by the district court making it to the circuit court of appeals having jurisdiction of the district, and said circuit court of appeals may, within thirty days after the receipt of the same, for good cause, disapprove such appointment, in which case it shall become of no effect, and such district court shall make another appointment, but the acts of such adjuster in the meantime shall be valid.

(2) No person shall be appointed as adjuster who, at the time of his appointment, holds any office of profit or emolument under the laws of the United States or of any State other than the office of commissioner of deeds, justice of the peace, or notary public, or who has been in the employment of any

railroad as claim agent or attorney within a period of twelve months prior to his appointment, or who is related by marriage or by consanguinity or affinity, within the third degree as determined by the common law, to any judge of the district court of the United States, or judge or justice of an appellate court, having jurisdiction of the district wherein he may be appointed. The adjuster shall be a resident of the territorial district for which he is appointed. He shall hold his office for a term of four years, but may be removed at any time by the court or by the President, on the recommendation of the Attorney General of the United States, if his services are no longer required in the public interest, or for good cause shown. Each adjuster before entering upon the duties of his office shall take an oath of office for the faithful and impartial performance of his duties. In case any adjuster shall be removed, or for any reason shall cease to act, he shall transfer all his official records, files, and papers to his successor in office, or, if none, then to the clerk of the district court having jurisdiction, and the court shall have power to enforce this provision by order: *Provided, however,* That nothing herein shall operate to render any adjuster ineligible to act in a like capacity under the law of any State.

(3) It shall be the duty of the said adjuster to keep a record of his proceedings, and he shall have the power to preserve and enforce order in his presence while transacting business; to subpoena witnesses; to administer oaths in any proceeding and in all other cases where it may be necessary in the exercise of his powers and duties; to formulate, issue, amend, and control his processes and orders consistent with law as may be necessary to carry into effect the powers and jurisdiction possessed by him; to examine persons as witnesses, take evidence, require the production of documents, and to do all other things conformable to law which may be necessary to enable him effectively to discharge the duties of his office.

(4) If any person shall, in proceedings before an adjuster, disobey or resist any lawful order or process, or misbehave during a hearing or so near the place thereof as to obstruct the same, neglect to produce after having been ordered to do so any pertinent document, or refuse to appear after having been subpoenaed, or, upon appearing, refuse to take the oath as a witness, or after having taken the oath refuse to be examined according to law, the adjuster shall certify the facts to the district court having jurisdiction, which shall thereupon in a summary manner hear the evidence as to the acts complained of, and if the evidence so warrant, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of or in the presence of the court: *Provided,* That no person shall be required to attend as a witness before an adjuster at a place outside of the State of his residence and more than one hundred miles from such place of residence, or unless his lawful mileage and fee of one day's attendance shall be first paid or tendered to him: *Provided,* That either party may take the testimony to be used before the adjuster, of a witness, either by deposition or interrogatories, according to the rules of practice of force in the United States district in which the case is pending.

(5) It shall be the duty of said adjuster to maintain and keep open during reasonable business hours an office at the place of his residence for the transaction of business under this act, at which office he shall keep his records and papers. He shall, however, hear cases at such other place or places within the limits of his territorial jurisdiction as will be most convenient for the parties and witnesses, including the place where the accident occurred and the residence of the injured or deceased employee. He shall be allowed all necessary traveling expenses in going to and from his place of residence for the purpose of conducting such hearings and his necessary and reasonable expense of subsistence actually incurred while so absent, not exceeding \$5 per day. Accounts for all such expenses shall be approved by the district court and transmitted to the Attorney General of the United States and paid as allowed by him. Said accounts shall be rendered quarter yearly, beginning with the first day of October next after this law goes into effect. The Attorney General, upon requisition, shall, at the expense of the United States, furnish each adjuster with necessary records, books, blanks, and stationery supplies.

(6) No adjuster shall act in any case in which he is interested, or when he is employed by either party or related to either party by marriage or by consanguinity or affinity within the third degree, as determined by the common

law. Whenever it shall be made to appear, by the application of either party, to the satisfaction of the district court having jurisdiction, that the adjuster before whom any case is pending is disqualified, or that he entertains bias or prejudice, so that a fair and impartial hearing of the case can not be had before him, it shall be the duty of the court to order the case transferred for hearing and disposition to another adjuster within the judicial district, or if none, to another adjuster within the State, or if none, then to appoint a competent person to act in the case as adjuster pro tempore. Such adjuster pro tempore shall possess all the powers conferred upon the adjuster by this act, and shall proceed in the same manner and with the same effect. His compensation shall be fixed by the court appointing him, and such compensation shall be paid by the United States on the approval of the judge and the allowance of the Attorney General. The parties may agree to transfer any case to another adjuster in the same State, and in case of such agreement or order all papers and a certified copy of any record in the case shall without cost be forthwith transmitted by the adjuster before whom the case is pending to the adjuster agreed upon or designated, who shall, upon receipt of such papers and copy of record, proceed as though the case had been originally brought before him.

(7) Neither an adjuster nor the partner of an adjuster shall appear as attorney for either party in any proceedings under this act.

(8) The adjuster may, in any case upon application of either party or of his own motion, appoint a disinterested and duly qualified physician to make any necessary medical examination of the employee and testify in respect thereto. Said physician shall be allowed a reasonable fee, to be fixed by the adjuster, not exceeding for each examination \$10, which shall be included by the adjuster in his account and paid as provided in paragraph five of section thirteen: *Provided, however,* That the adjuster shall in every case receive the testimony of any physician called by either the employer or the employee.

(9) Witness fees and mileage shall be computed at the rate allowed for witnesses in the United States district courts, and fees and mileage for serving the petition or other papers shall be computed at the rate allowed for service of summons from said court in civil suits by the United States marshal. Costs legally incurred may be taxed against either party, or apportioned between the parties, in the sound discretion of the adjuster or of the court, as the case may be, and as the justice of the case may require.

(10) The adjuster or adjusters for the District of Columbia shall be appointed by the Supreme Court of the District, and such adjuster or adjusters shall hold the same tenure of office as prescribed for adjusters appointed by the United States district courts, subject to removal by the Supreme Court of the District of Columbia, or by the President on the recommendation of the Attorney General of the United States, for like cause, and shall have the same power and jurisdiction under this act within the limits of the District of Columbia, and shall be governed by all the provisions of this act, so far as the same may be applicable, in the same manner as adjusters appointed by the United States district courts. The findings of the adjuster or adjusters shall be transmitted to the said supreme court, and shall be disposed of by said court in the same manner and under the same rules as are prescribed herein for the disposal of such matters by the United States district courts. The said supreme court and the justices thereof shall have and exercise the same power in all cases arising under this act within the District of Columbia as are conferred by this act upon the United States district courts.

SEC. 14 (1) That in default of agreement between the parties interested, or submission to a committee as hereinbefore provided, the employer, employee, or any dependent may, after giving notice of the accident when the same is required, or without giving notice where such notice is not required, and within one year from the date of the injury or death, institute proceedings for the settlement and adjustment of the claim before an adjuster having jurisdiction within the territory where the accident occurred. Such proceedings may be instituted by petition, setting forth in ordinary language the facts constituting the claim and asking that compensation be fixed and awarded in accordance with the provisions of this act. Unless service is accepted by the party defendant a copy of such petition shall be served upon him and return of such service made in the manner provided by law.

(2) Within ten days after such service the party defendant may answer the petition, and in such answer shall include such questions of law and fact as it may be desired to put in issue. As soon as practicable after the answer has been received, the adjuster shall proceed to hear the case and decide the same,

his decision both upon questions of fact and law being reviewable in the district court as herein provided. If no answer has been filed within ten days after the service of the petition, or such other time as may be fixed by the adjuster, the said adjuster shall enter a default and proceed to hear the evidence and determine the case with the same effect as though answer had been made. If no proceedings shall be instituted for the settlement and adjustment of a claim arising under this act within one year, as above provided, the same shall be forever barred, unless the adjuster shall find that the failure to institute proceedings within such time was chargeable to the employer or to circumstances clearly beyond the control of the employee or dependent. But under no circumstances shall any claim for compensation be maintainable after the lapse of two years from the date of injury or death, except in cases in this act otherwise provided for: *Provided*, That in any case where the period during which payments are to be made is not made final by agreement, award, findings, or final judgment, such claim shall be maintainable within three months from the date when the last payment was due according to the terms of such agreement, award, findings, or judgment, or, when no such time has been fixed, or where payments are discontinued by the employer as set forth in section eight, from the date of the last actual payment: *Provided*, That where an employee institutes suit for an injury claiming that same did not take place while he was employed in interstate or foreign commerce and fails to recover in such suit, on the ground that he was employed in such commerce, the limitation of the time for his right to proceed under this act shall begin with the termination of such suit, and not with the time when the injury to him occurred.

(3) The adjuster shall allow either party to be represented by counsel, or an agent, who need not be a member of the bar, and after hearing any evidence that may be presented and considering any arguments that may be made he shall promptly make and render his findings in writing, a copy of which shall be served on each of the parties, and shall return such findings, together with the petition and answer, if any, into the clerk's office of the United States district court for the district in which he was appointed, or the clerk's office of the Supreme Court of the District of Columbia, as the case may be. The clerk of the court shall forthwith file the same and make an entry thereof on his docket without charge. At any time within twenty days after receiving a copy of the findings either party may file exceptions with the clerk of the court and serve a copy thereof on the adverse party, stating generally that the findings of the adjuster are excepted to on the ground that they are contrary to the law and evidence, whereupon the case shall be tried and determined in said court, all questions of law and fact being open for consideration de novo. And said court may regulate by rule the practice in such cases in all respects not provided for by statute. The party filing exceptions shall at the same time pay to the clerk of the court the sum of \$5, which shall be in lieu of all other clerk's fees and charges, and no other or additional charge for any service rendered by said clerk in said cause except as herein otherwise provided shall be made. Any such amount shall be taxed by the court as costs against the losing party. If no exceptions shall be filed by either party as above provided, the said findings shall become final and have the effect of and, subject to payments of fees as in other cases, be enforced as a judgment of the court, and the clerk shall, without charge, record said findings and index the same as in the case of other judgments: *Provided*, That if the employer shall file exceptions to the findings of the adjuster, and shall not on the trial de novo in the district court reduce the amount awarded by the adjuster to the employee, there shall be added by the court when judgment is entered on the finding of the court, or the verdict of the jury on the trial in said district court, twenty-five per centum on the sum awarded to the employee by said court in its findings or by the verdict.

(4) Where exceptions are filed, either party shall have the right to a trial by jury, upon the claim for compensation under this act, as in cases at common law. But a jury trial may be waived by consent of the parties, and the court shall thereupon hear and determine the case without a jury. Where the case is tried by jury the court may submit special interrogatories, to be answered by the jury in the form of a special verdict. If the evidence produced before the adjuster shall be taken in writing or in shorthand, it may be, in case of appeal from the finding of the adjuster, transcribed and duly authenticated, and filed with the clerk of the United States court; and may be thereafter read in evidence in any future hearing or trial in said cause under the same

circumstances and with the same force and effect as a deposition may now be read in suits at law.

(5) Wherever counsel or agent for the employee has stipulated for a fee, the agreement for which such fee shall be made in writing and filed with the adjuster or clerk of the court in which the case is pending, and the employee shall not be liable to pay any fee in excess of the amount allowed by the adjuster or the court. In every case it shall be the duty of the adjuster or the court, as the case may be, regardless of any agreement, to fix the compensation, which shall not exceed a fair and reasonable sum for the services actually rendered, and which shall not be greater than the sum agreed upon.

(6) Appeals and writs of error may be taken from the district courts to the circuit courts of appeals and to the Supreme Court of the United States as provided in sections one hundred and twenty-eight and two hundred and thirty-eight of the Judicial Code, and it shall be competent for the Supreme Court of the United States to require, by certiorari or otherwise, any case to be certified to it for review and determination as provided in section two hundred and fifty-one of the Judicial Code. In cases arising in the District of Columbia appeals may be taken from the Supreme Court of the District to the Court of Appeals of the District as in other cases, and appeals and writs of error may be taken to the Supreme Court of the United States as in other cases, and said court may require, by certiorari or otherwise, any case to be certified to it for review and determination as in other cases.

(7) Any petition may be served by the United States marshal for the district where the proceedings are pending, or by any deputy. Any subpoena, process, or order of an adjuster, or any notice or paper requiring service, may be served by such United States marshal or deputy, or by any citizen of the United States over the age of twenty-one years, being a resident of such district, or by registered mail sent by the adjuster to the person or employer to be served, postage prepaid, and addressed to the principal place of business of such employer or to the place of residence of such person. The affidavit of such citizen, or the return registry receipt signed by the person or employer to be served, shall be prima facie proof of service.

SEC. 15. That while any person entitled to compensation under this act shall be an infant or mentally incompetent, his natural guardian, or guardian or committee, appointed pursuant to law, may on his behalf perform any duty required or exercise any right conferred by this act with the same force and effect as if such person was legally capable to act in his own behalf. No limitation respecting the time within which any right under this act is to be asserted shall, as against such infant or incompetent person, run while such infant or incompetent person has no guardian or committee: *Provided, however,* That the foregoing shall not apply to cases of infancy where the infant is over the age of eighteen years, but such infant shall be treated for all purposes of this act as though of full age.

SEC. 16. That the assignment of any cause of action arising under this act, or of any payments due or to become due under the provisions hereof, shall be void. Every liability and all payments due or to become due under this act shall be exempt from levy or sale for private debt. In case of insolvency every liability for compensation under this act shall constitute a first lien upon all the property of the employer liable therefor paramount to all other claims or liens except for wages and taxes, and such lien shall be enforced by order of the court.

SEC. 17. That nothing in this act shall interfere with any proceeding by the United States to enforce any act of Congress regulating the appliances or conduct of any common carrier, or affect the liability of any such common carrier to a fine or penalty under any such act. Nothing in this act shall be so construed as to affect the power and jurisdiction of the courts, under the established principles of equity, to reform or cancel any agreement or award.

SEC. 18. That where an injury or death for which compensation is payable under this act was caused under circumstances also creating a legal liability for damages on the part of any carrier subject to the provisions of this act other than the employer, the employer shall be subrogated to the right of the employee or dependents to recover against such other carrier, and such employer may bring legal proceedings against such carrier to recover the damages sustained by the injured employee or dependents in an amount not exceeding the aggregate amount of compensation payable to the injured employee or dependents under this act. That where the injury or death for which compensation is payable under this act was caused under circumstances also creating a

legal liability for damages on the part of any person other than the employer, such person not being subject to the provisions of this act, legal proceedings may be taken against such other person to recover damages, notwithstanding the payment of or liability to pay compensation under this act; but in such case, if the action against such other person is brought by the injured employee, or in case of his death by his dependents, and judgment is obtained and paid, or settlement is made with such other person, either with or without suit, the employer shall be entitled to deduct from the compensation payable by him the amount actually received by such employee or dependents: *Provided*, That if the injured employee, or in case of his death his dependents, shall agree to receive compensation from the employer, or institute proceedings to recover the same, or accept from the employer any payment on account of such compensation, such employer shall be subrogated to all the rights of such employee or dependents and may maintain, or in case an action has already been instituted, may continue an action either in the name of the employee or dependents, or in his own name, against such other person for the recovery of damages, but such employer shall nevertheless pay over to the injured employee or dependents all sums collected from such other person by judgment or otherwise in excess of the amount of such compensation already paid under this act, and costs, attorneys' fees, and reasonable expenses incurred by such employer in making such collection or enforcing such liability, and shall to the extent thereof be relieved from future payments.

SEC. 19. That no contract, rule, regulation, or device whatsoever shall operate to relieve the employer in whole or in part from any liability created by this act.

SEC. 20. That for all the purposes of this act the monthly wages of an employee, unless the monthly wage is ascertained by the contract of employment, shall be twenty-six times the established day's pay prevailing in the business of his employer for the class of service for which such employee was receiving pay at the time of the accident, or, if payment be by the hour, by the piece, or by the job, shall be twenty-six times the average of one day's earnings in such business and class of service ascertained by taking the aggregate of the earnings for the month next preceding the accident and dividing this aggregate by the number of days work which the employee performed during the month. Calculations of the percentage of wages herein mentioned shall be based on the monthly wages ascertained by the contract of employment or on the amount thereof determined as aforesaid, as the case may be. For the purpose of such calculation no employee's wages shall be considered to be less than \$50 a month; except that where in any case the monthly wages of the employee are less than \$25 per month, payment for the first twenty-four months of disability shall not exceed the full amount of such monthly wages: *Provided*, That where the employee is engaged in a class of service in which employees habitually and with the sanction of the employer receive for their own use gratuities from the traveling public, the monthly wages of such employee shall not be considered to be less than \$50 a month.

All compensation under this act shall be paid monthly unless commuted as hereinafter provided.

SEC. 21. That compensation under this act shall be made in accordance with the following schedule:

(A) Where death results from any injury, except in the cases provided for in section twenty-three, and except in those cases in which, in certain contingencies, a reduced period is hereinafter provided for, the following amounts shall be paid for a period of eight years from the date of the death: *Provided, however*, That this limitation shall not apply to any male child under the age of sixteen years or female child under the age of twenty years; but payments shall continue to such child until it shall have attained the age of sixteen years or twenty years, as the case may be.

(1) If the deceased employee leave a widow and no male child under the age of sixteen and no female child under the age of twenty, and no dependent child over such age of sixteen or twenty, respectively, there shall be paid to the widow forty per centum of the monthly wages of the deceased.

(2) If the deceased employee leave a widow and any male child under the age of sixteen or female child under the age of twenty, or any dependent child over such age of sixteen or twenty, respectively, there shall be paid to the widow for the benefit of herself and such child or children fifty per centum of the monthly wages of the deceased.

(3) If the deceased employee leave any male child under the age of sixteen or female child under the age of twenty, or dependent child over such age of

sixteen or twenty, respectively, but no widow, there shall be paid, if one such child, twenty-five per centum of the monthly wages of the deceased to such child, and if more than one such child ten per centum additional for each of such children, not to exceed a total of fifty per centum of the monthly wages of the deceased, divided among the children, share and share alike: *Provided*, That if the number of children entitled to payment be subsequently reduced to less than four, the amount of the payments shall be correspondingly diminished.

(4) In the event of the death or remarriage of a widow receiving payments under subdivision (2) of this clause, the amounts stated in subdivision (3) shall thereafter be paid to the child or children of the deceased employee therein specified for the unexpired part of the period of eight years from the date of the employee's death, but to continue in any event until the youngest male child shall have attained the age of sixteen years and the youngest female child shall have attained the age of twenty years, subject to the provisions of subdivisions (3) and (9) of this clause (A).

(5) If the deceased employee leave no widow or children entitled to any payment hereunder, but leave a parent or parents, there shall be paid, in case of partial dependency, fifteen per centum of the monthly wages of the deceased to such parent or parents, and if either is or both are wholly dependent on the deceased there shall be paid in lieu of the fifteen per centum, if only one parent, twenty-five per centum of the monthly wages of the deceased, or if both parents, forty per centum of the monthly wages of the deceased, to such parent or parents.

(6) If the deceased leave no widow or child or parent entitled to any payment hereunder, but leave any brother, sister, grandparent, or grandchild wholly dependent upon him for support, there shall be paid to such dependent relative, if but one, twenty per centum of the monthly wages of the deceased, or if more than one, thirty per centum of the monthly wages of the deceased, divided among them share and share alike. If none of such relatives is wholly dependent and the deceased leave any such relative or relatives partially dependent upon him for support, there shall be paid to such dependent relative or relatives ten per centum of the monthly wages of the deceased, divided among them share and share alike.

(7) The foregoing subdivisions of this clause (A) shall apply only to dependents who at the time of the death of the deceased employee are actual residents of the United States or contiguous countries, except (a) if the non-resident dependent be a widow and there be no resident child or children entitled to compensation under this act, there shall be paid to her a lump sum equal to one year's wages of the deceased employee, as hereinbefore defined and limited, for the benefit of herself and nonresident children, if any; (b) if the nonresident dependent be a child or children under the age of sixteen years and there be no widow, resident or nonresident, and no resident children entitled to compensation under this act, there shall be paid to such nonresident child or children a like lump sum to be divided among them share and share alike, it being the intention of the foregoing to exclude from the benefits of this act any such nonresident widow, child, or children if there be any resident child or children entitled to compensation under this act, and to exclude from the benefits of this act all other resident dependents if there be any nonresident widow, child, or children entitled to take under the provisions of this subdivision.

(8) If the monthly payments for a death hereunder are at the rate of not more than \$15 per month, there shall be paid by the employer a contribution of \$75 toward the burial expenses: *Provided, however*, That where no compensation for death of an employee caused as defined by sections one and two of this act is payable hereunder there shall be furnished by the employer a reasonable burial expense not exceeding \$150.

(9) If compensation is being paid under this act to any dependent, such compensation, unless otherwise provided for herein, shall cease, in any event, upon the death or marriage of such dependent, and in the case of a dependent child over the age of sixteen or twenty years, as the case may be, shall, subject to the limitations of time hereinbefore imposed, cease, in any event, when such child shall cease to be dependent.

(B) Where permanent total disability results from any injury, there shall be paid to the injured employee fifty per centum of the monthly wages of such employee during the remainder of his life. In the following cases it shall, for the purposes of this section, be conclusively presumed that the injury resulted in permanent total disability, to wit: The total and irrevocable loss of sight in

both eyes, the loss of both feet at or above the ankle, the loss of both hands at or above the wrist, the loss of one hand and one foot, an injury to the spine resulting in permanent and complete paralysis of the legs or arms, or an arm and a leg, and an injury resulting in incurable imbecility or insanity.

(C) Where temporary total disability results from any injury there shall be paid fifty per centum of the monthly wages of the injured employee during the continuance of such temporary total disability.

(D) Where permanent partial disability results from any injury—

(1) An amount equal to fifty per centum of his wages shall be paid to the injured employee for the periods stated against such injuries, respectively, as follows: In case of—

The loss by separation of one arm at or above the elbow joint, or the permanent and complete loss of the use of one arm, seventy-two months.

The loss by separation of one hand at or above the wrist joint, or the permanent and complete loss of the use of one hand, fifty-seven months.

The loss by separation of one leg at or above the knee joint, or the permanent and complete loss of the use of one leg, sixty-six months.

The loss by separation of one foot at or above the ankle joint, or the permanent and complete loss of the use of one foot, forty-eight months.

The permanent and complete loss of hearing in both ears, seventy-two months.

The permanent and complete loss of hearing in one ear, thirty-six months.

The permanent and complete loss of the sight of one eye, thirty months.

The loss by separation of a thumb, thirteen months; a first finger, nine months; a second finger, seven months; a third finger, six months; a fourth finger, five months.

The loss of one phalanx of a thumb or two phalanges of a finger shall be considered equal to the loss of one-half of a thumb or of a finger, and compensation for one-half of the above periods shall be payable.

The loss of more than one phalanx of a thumb and more than two phalanges of a finger shall be considered as the loss of an entire thumb or finger.

The loss by separation of a great toe, nine months; any other toe, four months.

(2) In all other cases of injury resulting in permanent partial disability the compensation shall bear such relation to the periods stated in subdivision one of this clause (D) as the disabilities bear to those produced by the injuries named therein, and payments shall be made for proportionate periods not in any case exceeding seventy-two months.

(E) Where temporary partial disability results from an injury, the employee, if he is unable to secure work at the same or better wages than he was receiving at the time of the injury, shall receive fifty per centum of his wages during the continuance of such disability; but such payment shall not extend beyond the period fixed for payment for permanent partial disabilities of the same character; and if the employee refuses to work after suitable work is furnished or secured for him by the employer, at the same or better wages than he was receiving at the time of the injury, he shall not be entitled to any compensation for such disability during the continuance of such refusal.

SEC. 22. That should an employee who sustains an injury resulting in permanent total or permanent partial disability die from any cause at any time, or should an employee who sustains an injury resulting in temporary total or temporary partial disability die as a result of such injury after fourteen days of disability, the employer shall be liable for an amount to be ascertained as follows:

First. By computing the amount which would have been payable under clause (A) of section twenty-one, if death had immediately resulted from the accident.

Second. By deducting from such amount a sum equal to the payments for the period between the accident and the death, which, if the accident had immediately resulted in death, the employer, by reason of the happening of any of the contingencies mentioned in clause (A) of section twenty-one, would have been relieved from making.

Third. By deducting from the remainder so ascertained the amount of the compensation paid up to the time of death under clause (B), (C), (D), or (E) of section twenty-one.

The amount so ascertained shall be paid to the dependents, if any, of such employee, living at the time of his death, in the same amounts and subject to the same contingencies as if compensation had been payable to them under clause (A) of section twenty-one by reason of their having been dependent at the time of the accident: *Provided*, That should an employee who sustains

an injury resulting in permanent partial disability die from cause other than the injury at any time, the liability of the employer shall not exceed the unpaid balance of the amount which, if the injured employee had lived, would have been paid under the terms of any agreement, award, findings, or judgment, or under clause (D), section twenty-one.

SEC. 23. That if, in an accident, an employee receive an injury resulting in permanent partial disability and in the same accident receive additional injury, which, by itself, entitles him to compensation, or if he be injured in the service of the same employer while entitled to or receiving payments for a previous injury, the amount of the monthly payments to him for such combined injuries shall be computed as for a single injury as provided for and limited by section twenty hereof, but in such case the periods of time prescribed for such combined injuries, severally, shall be added together: *Provided*, That where any of such periods is less than three months, the same shall not be added, but shall be disregarded.

If an employee receive an injury, which, of itself, would only cause permanent partial disability, but which combined with a previous injury, does in fact cause permanent total disability, the employer shall only be liable as for the permanent partial disability, so far as the subsequent injury is concerned.

SEC. 24. That in case any employee for whose injury or death compensation is payable under this act shall, at the time of the injury, be employed and paid jointly by two or more employers subject to this act, such employers shall be jointly and severally liable for the payment of such compensation, but as between themselves such employers shall contribute the payment of such compensation in the proportion of their respective wage liability to such employee. If one or more but not all of such employers should be subject to this act, then the liability of such of them as are so subject shall be to pay that proportion of the entire compensation which their proportionate wage liability bears to the entire wages of the employee: *Provided, however*, That nothing in this section shall prevent any arrangement between such employers for a different distribution, as between themselves, of the ultimate burden of such compensation: *And provided further*, That proceedings for the purpose of obtaining an award and payments under an award shall not in any event be delayed because of liability to contribution as between employers.

SEC. 25. That where payment of compensation is made to the widow for the use of herself, or for the use of herself and child or children, her written receipt therefor shall acquit the employer. Where payment is made to any child eighteen years of age or over, the written receipt therefor of such child shall acquit the employer. Where payment is due to a child under the age of eighteen years, the same shall be made to a duly appointed and qualified guardian of such child under the laws of the State of such child's residence, and the written receipt therefor of such guardian shall acquit the employer.

SEC. 26. That the term "dependent" shall include all persons who are entitled to compensation under the provisions of clause (A), section twenty-one, and of section twenty-two, and wherever the context requires it, shall be held to include the personal representatives of the deceased and guardians of infants or incompetent persons.

The term "injury" wherever the context requires it shall be held to include death resulting from injury.

The term "employee" includes an apprentice, but does not include an employee whose employment is purely casual, and not for the purposes of the employer's business. It shall include the singular and plural and both sexes. Any reference to an employee who has been injured shall, where the employee is dead, and the context requires it, include a reference to his dependents or personal representatives.

The term "physician or physicians" includes surgeon or surgeons.

The term "child or children" shall include posthumous children and all other children entitled by the law of the State where the accident happens to inherit as children of the deceased employee.

"Disability" under this act shall mean want of capacity or ability by reason of injury to make full wages and full time in the position where working at the time of receiving the injury.

The term "dependent child over the age of sixteen or twenty," wherever it occurs in this act, or any reference to such child, shall be construed to mean a dependent child over the age specified unable to earn a living by reason of mental or physical incapacity.

Whenever an employee of a common carrier engaged in interstate or foreign commerce by railroad shall sustain personal injury by accident arising out of and in the course of his employment resulting in his disability or death, it shall be presumed *prima facie* that such employee was at the time of the accident engaged in such commerce.

SEC. 27. That without otherwise affecting the meaning or interpretation thereof the phrase "personal injury by accident arising out of and in the course of his employment"—

(a) Shall not cover an employee except while he is engaged in, on, or about the premises where his services are being performed, which are occupied by or under the control of the employer, or while he is engaged elsewhere in or about his employer's business where his service contracted for or reasonably volunteered or rendered for the protection of his employer's interests requires his presence as a part of such service at the time of the injury and subjects him to dangers incident to that employment.

(b) It shall not include an injury caused by the willful act of another directed against him for reasons personal to such employee and not against him as an employee or because of his employment.

(c) It shall not include a disease or infection except as it shall result from the injury.

SEC. 28. That where in any case payments have continued for not less than six months either party may, upon due notice to the other party, apply to the court having jurisdiction of the territory within which the accident occurred for an order commuting the future payments to a lump sum. The application shall be considered by the court sitting without a jury, and may be granted where it is shown to the satisfaction of the court that the payment of a lump sum in lieu of future monthly payments will be for the best interest of the person or persons receiving or dependent upon such compensation, or that the continuance of monthly payments will, as compared with lump-sum payments, entail undue expense or undue hardship upon the employer liable therefor, or that the person entitled to compensation has removed or is about to remove from the United States. Where the commutation is ordered the court shall fix the lump sum to be paid at an amount which will equal the total sum of the probable future payments, capitalized at their present value upon the basis of interest calculated at 4 per centum per annum with annual rests. Upon paying such amount the employer shall be discharged from all further liability on account of the injury or death and be entitled to a duly executed release, upon filing which, or other due proof of payment, the liability of such employer under any agreement, award, findings, or judgment shall be discharged of record.

SEC. 29. That nothing herein contained shall be construed as doing away with or affecting any common-law or statutory right of action or remedy for personal injury or death happening before this act shall take effect.

SEC. 30. That if either the employee or the employer shall file exceptions to the report of the adjuster, as provided in this act, he may on motion in writing have the cause removed from the district court of the United States to any State court of competent jurisdiction in the county where the cause of action arose or where the employee resides or is doing business at the time of such removal, by filing in such State court, within thirty days from the filing of said exceptions, a certified copy of the report of the adjuster and his exceptions thereto, and thereupon the case shall proceed and trial shall be had in said State court in the same manner as is provided in this act for trial in the district court of the United States: *Provided*, That if the employer removes said cause, such removal shall be to the county where the cause of action arose or where the employee resides. If both the employee and the employer shall file motions for removal as above provided, the motion first filed shall prevail. When a case is removed to a State court it shall not thereafter be removed to a court of the United States. Appeal from and writ of error to such State court shall lie as in other cases. The provisions of this section shall be applicable and become effective in any State whenever and only whenever that State by appropriate legislation shall authorize the proceedings and practice in the courts of that State provided in this act for the trial of such causes in the district court of the United States.

SEC. 31. That it shall be the duty of every employer subject to this act to make reports of accidents, payments, and operations under this act to the Interstate Commerce Commission in such detail and at such times as the said commission may by general regulation require. Such reports shall be compiled

and the general results thereof published as soon after they are received as practicable.

SEC. 32. That no employee or dependent who shall have lost his right to compensation hereunder by reason of the invalidity of this act or any part of it, in case the act or any part of it shall be held to be invalid, shall be deprived of any right of action to which he would otherwise have been entitled if this act had not been passed, and such right in such event is hereby preserved and may be enforced within two years from and after the adjudication of such invalidity.

SEC. 33. That this act shall take effect on the first day of January, nineteen hundred and fourteen, and may be cited as the Federal accident compensation act of nineteen hundred and fourteen.





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